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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 0912011421-0200-01]

RIN 0648-AY41

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Weakfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed Rule; withdrawal.

SUMMARY: NMFS withdraws a proposed rule proposing a 100 lb (45 kg) per day or trip commercial possession limit for weakfish (*Cynoscion regalis*) caught in the Exclusive Economic Zone (EEZ) and setting the recreational possession limit at 1 fish per person per day or trip. The intent of the proposed rule was to modify regulations for the Atlantic coastal stock of weakfish to be more compatible with Addendum IV to Amendment 4 of the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP). The Commission has now concluded that existing Federal regulations are conservationally equivalent to state regulations; therefore, changes to current EEZ regulations are no longer needed. Such action is authorized under the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act).

DATES: The proposed rule published on May 12, 2010 (75 FR 26703) is withdrawn as of [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Steve Meyers, (301) 427-8500.

SUPPLEMENTARY INFORMATION:

Background

At the request of the Commission, NMFS explored management measures to modify weakfish conservation measures in the EEZ under the authority of the Atlantic Coastal Act, 16 U.S.C. 5103, which states that, in the absence of an approved and implemented Fishery Management Plan under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 et seq.) and, after consultation with the appropriate Fishery Management Council(s), the Secretary of Commerce (Secretary) may implement regulations to govern fishing in the EEZ (i.e., from 3 to 200 nm offshore).

On November 3, 2009, the Commission adopted Addendum IV to Amendment 4 to the ISFMP for Weakfish (Addendum IV), in response to the stock status of weakfish. A peer-reviewed assessment found the weakfish stock to be depleted. The decline in biomass reflects a sustained rise in natural mortality after 1995, rather than fishing mortality, which has been modest and stable over the same time period. As a result, the Commission's Weakfish Management Board approved management measures to reduce exploitation by more than 50-percent in both the recreational and commercial sectors. Addendum IV requires states to implement a 100 lb (45 kg) commercial trip limit, a 100 lb (45 kg) commercial bycatch limit during closed seasons, and a one-fish recreational creel limit. Addendum IV maintains the current 12 in (30.5 cm) minimum size for weakfish. The sale of undersized fish continues to be prohibited.

In May 2010, NMFS published a proposed rule and request for comments to establish compatible regulations. Existing regulations prohibited possession of more than 150 lb per trip

and fishing for weakfish less than 12 in (30.5 cm); there was no recreational bag limit.

In August 2010, NMFS received a letter from the Commission informing NMFS that all states would retain a commercial limit of 100 lb (45 kg) except for North Carolina, which would have a 1,000 lb (450 kg) possession limit. The Commission's Weakfish Technical Committee had concluded that, as the stock decline was the result of natural mortality and not fishing mortality, the 1,000 lb (450 kg) limit would be conservationally equivalent to a 100 lb (45kg) limit. The Commission defines conservation equivalency as actions which differ from the specific requirements of the ISFMP, but which achieve the same quantified level of conservation for the resource under management. To support Addendum IV, the Commission had requested that the 1,000 lb (450 kg) limit be established in the EEZ adjacent to North Carolina, with all other Atlantic states having a 100 lb limit in the adjacent EEZ.

In March 2014, NMFS received a letter from the Commission stating that North Carolina had implemented the 100 lb (45 kg) commercial limit and ended the 1,000 lb (450 kg) limit. The letter further stated that the Commission was withdrawing its request to change the weakfish regulations in the EEZ because the existing regulations are conservationally equivalent to state regulations.

Weakfish harvested in the EEZ do not result in high ex-vessel sales and as such they are seldom targeted by recreational and commercial fishermen. To the extent weakfish are caught, it is only as bycatch and presumed dead, so the difference between a 100 lb and 150 lb limit provides no additional conservation. The same can be said for recreational harvest, given that it minimally exists in the EEZ and harvest is controlled by state landing limits. Per the Commission's request, we are withdrawing the proposed rule.

Authority: 16 U.S.C. 5101 et seq.

Dated: September 16, 2014

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